United Nations CRPD/C/CZE/CO/1

Convention on the Rights of Persons with Disabilities

Distr.: General
15 May 2015

Original: English

**Committee on the Rights of Persons with Disabilities**

# Concluding observations on the initial report of the Czech Republic*

## I. Introduction

1. The Committee considered the initial report of the Czech Republic (CRPD/C/CZE/1) at its 180th and 181st meetings (CRPD/C/SR.180 and 181), held on 31 March and 1 April 2015, respectively, and adopted the following concluding observations at its 192nd meeting, held on 10 April 2015.

2. The Committee welcomes the initial report of the Czech Republic, which was prepared in accordance with the Committee's reporting guidelines, and thanks the State party for its written replies (CRPD/C/CZE/Q/1/Add.1) to the list of issues prepared by the Committee.

3. The Committee appreciates the fruitful dialogue held with the State party's delegation during the consideration of the report and commends the State party for the strength of its delegation, which included many representatives of relevant government bodies responsible for the implementation of the Convention.

## II. Positive aspects

4. The Committee welcomes the efforts the State party has made to harmonize its legislation with the provisions of the Convention and the policies and measures it has adopted to ensure implementation of the rights of persons with disabilities, as enshrined in the Convention. It takes note of the National Plan for the Creation of Equal Opportunities for Persons with Disabilities for 2010–2014. The Committee welcomes the prohibition of direct and indirect discrimination of persons with disabilities in the Anti-Discrimination Act. The Committee also welcomes the introduction of the provision in the Building Act that the creation of a barrier-free environment is in the public interest. It notes the efforts made to make air and rail transport accessible to persons with disabilities. The Committee welcomes the State party's efforts to implement the provision in the new Civil Code for supported decision-making in some situations. It notes with appreciation the provision of assistance in proceedings under the Code of Civil Procedure. It welcomes the independent

* Adopted by the Committee at its thirteenth session (25 March–17 April 2015).

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mandate given to the Ombudsman to carry out systematic preventive visits to places and facilities where persons with restricted liberty are or may be located. The Committee welcomes the decision of the Supreme Administrative Court in December 2014 recognizing the right of children with disabilities to live in the community. It welcomes the official recognition of Czech sign language.

# III. Principal areas of concern and recommendations

## A. General principles and obligations (arts. 1–4)

5. The Committee notes that the State party has not ratified the Optional Protocol to the Convention.

6. **The Committee calls upon the State party to ratify the Optional Protocol to the Convention, as it undertook to do at the outcome of the second round of the universal periodic review (see A/HRC/22/3/Add.1, para. 6) and in line with the new National Plan on Promoting Equal Opportunities for Persons with Disabilities 2015–2020.**

7. The Committee notes that several definitions of disability and persons with disabilities in the State party's legislation (the Employment Act and the School Act, among others) are based on the medical approach to disability and are not in line with the provisions of the Convention.

8. **The Committee calls upon the State party to amend the definitions of disability and persons with disabilities in its legislation and to make explicit reference to the barriers faced by persons with disabilities in those definitions, in order to bring them into line with the Convention.**

## B. Specific rights (arts. 5–30)

### Equality and non-discrimination (art. 5)

9. The Committee notes with concern that, under the Anti-Discrimination Act, the duty to provide reasonable accommodation is limited to employment and related labour relations.

10. **The Committee calls upon the State party to amend its legislation and extend the prohibition of denial of reasonable accommodation to other areas besides employment and labour relations, in line with provisions of article 5 of the Convention.**

11. The Committee is concerned at the absence of case law relating to judicial protection from disability-based discrimination.

12. **The Committee calls upon the State party to take all measures necessary, including training the judiciary, strengthening independent human rights bodies and building the capacity of persons with disabilities and their organizations, to foster the use of legal remedies available to persons with disabilities who face discrimination and inequality.**

### Women with disabilities (art. 6)

13. The Committee is concerned at the absence of action being taken to prevent and combat the multiple discrimination faced by women and children with disabilities, and the

lack of data on women and girls with disabilities, which is fundamental to combating the intersectional discrimination they face.

14. **The Committee calls upon the State party to implement programmes and action for women and children with disabilities, including measures for equality and affirmative action both in terms of disability and equality policy. The State party should also establish a framework for data collection relevant to combating the intersectional discrimination faced by women and girls with disabilities, in line with article 31 of the Convention and taking into account the conceptual and methodological framework set out in *Human Rights Indicators: A Guide to Measurement and Implementation*. It should also step up the implementation of the policies it has adopted to combat such discrimination.**

**Children with disabilities (art. 7)**

15. The Committee is deeply concerned at the persistence of the public policy of caring for children with disabilities in institutions and the insufficient development of support services to boys and girls with disabilities and their families in local communities. The Committee is also concerned that children with disabilities are not able to systematically participate in decision-making that affects their lives and that they do not have the opportunity to express their opinion on matters pertaining to them directly.

16. **The Committee calls upon the State party to abandon the concept of residential institutional care for boys and girls with disabilities and to step up its efforts to develop support services for boys and girls with disabilities and their families in local communities, with a clear timeline and concrete benchmarks for implementation that are monitored effectively at regular intervals. The Committee also urges the State party to adopt safeguards to protect the right of boys and girls with disabilities to be consulted on all matters that affect them, and to guarantee them effective assistance to realize that right, bearing in mind their disability and age.**

**Accessibility (art. 9)**

17. The Committee notes with concern that the provisions of the Building Act on ensuring accessibility are still not being fully implemented. Furthermore, the Committee notes that deaf persons, blind persons and persons with intellectual disabilities still face challenges in accessing premises open to the public, owing to the lack of sign language interpretation, signage in Braille and augmentative and alternative communication and other accessible means, modes and formats of communication, such as pictograms.

18. **The Committee urges the State party to strengthen its monitoring of the implementation of accessibility standards by:**

(a) **Clearly defining which bodies have the mandate to monitor the implementation;**

(b) **Providing capacity-building and continuous training for the civil servants and experts in charge of monitoring;**

(c) **Involving organizations of persons with disabilities in the monitoring;**

(d) **Sanctioning those who fail to apply accessibility standards.**

19. **The Committee calls upon the State party to ensure that premises open to the public are accessible for persons with disabilities, especially deaf persons, blind persons and persons with intellectual disabilities, by providing sign language interpretation, signage in Braille and augmentative and alternative communication,**

**and all other accessible means, modes and formats of communication, such as pictograms.**

**Situations of risk and humanitarian emergencies (art. 11)**

20. The Committee is concerned that national emergency protocols do not contain provisions for persons with disabilities, in particular deaf people.

21. **The Committee urges the State party to ensure that disaster risk reduction and emergency response mechanisms are inclusive and accessible to all persons with disabilities.**

**Equal recognition before the law (art. 12)**

22. The Committee notes with concern that the new Civil Code still provides for the possibility of limiting a person's legal capacity and placing a person with a disability under partial guardianship.

23. **The Committee calls upon the State party to amend its Civil Code and fully harmonize its provisions with article 12 of the Convention, as indicated in the Committee's general comment No. 1 (2014) on equal recognition before the law. The State party should recognize the full legal capacity of all persons with all types of disability and improve access to supported decision-making, thus implementing the relevant provision of the Civil Code.**

**Access to justice (art. 13)**

24. The Committee notes with concern the lack of access for blind persons and persons with intellectual and psychosocial disabilities to judicial and administrative proceedings.

25. **The Committee urges the State party to ensure the availability of documents in formats accessible to all persons with disabilities who need them. It also recommends that judges and other personnel in the justice system be trained on the rights enshrined in the Convention.**

**Liberty and security of the person (art. 14)**

26. The Committee notes with concern that persons with disabilities may be deprived of their liberty on the basis of their disability under the provisions of the Social Services Act, the Health Services Act, the Act on Special Judicial Procedures, the Criminal Code and the Code of Civil Procedure.

27. **The Committee urges the State party to amend the aforementioned legislative instruments and fully harmonize the provisions therein with the provisions of article 14 of the Convention. As a guideline, the Committee recommends that the State party take the Committee's recent statement on article 14 (see CRPD/C/12/2, annex IV) into account.**

28. **The Committee recommends that the State party initiate a structural review of the procedures used to sanction persons with disabilities when they commit criminal offences. The system should comply with the general safeguards and guarantees established for all persons accused of a crime in the criminal justice system, inter alia, the presumption of innocence and the right to defence and to a fair trial. The Committee also recommends the application of reasonable accommodation in prisons in order not to aggravate incarceration conditions based on disability.**

**Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)**

29. The Committee notes with concern the practice of surgical castration of persons with disabilities who are deprived of liberty, as a form of punishment.

30. **The Committee urges the State party to put an end to the practice of imposing surgical castration and any other kind of forced treatment, as a form of punishment, on persons with disabilities who are deprived of their liberty.**

31. The Committee is deeply concerned that mechanical and chemical restraints, which may amount to torture or cruel, inhuman or degrading treatment, are commonly used in psychiatric institutions.

32. **The Committee urges the State party to immediately prohibit the use of mechanical and chemical restraints in psychiatric institutions on persons with psychosocial disabilities, and to strengthen the monitoring and inspection of those facilities in order to prevent such practices.**

33. **The Committee recommends that the State party ensure that persons deprived of their liberty have access to independent monitoring and complaint mechanisms and that victims of torture and ill-treatment are entitled to and provided with redress and adequate compensation, including rehabilitation.**

**Freedom from exploitation, violence and abuse (art. 16)**

34. The Committee notes with concern the lack of a disability perspective in policies for protection from violence, abuse and exploitation and the lack of data on the protection of persons with disabilities, especially women and girls, from exploitation, violence and abuse.

35. **The Committee urges the State party to mainstream the disability perspective in the existing policies for protection from violence, abuse and exploitation and to step up measures to protect persons with disabilities, especially women and girls, from exploitation, violence and abuse, including through the provision of safe and supportive community-based services, by collecting data on violence against persons with disabilities and conducting research on the issue.**

**Protecting the integrity of the person (art. 17)**

36. The Committee notes with concern that under the Civil Code and the Health Care Act, guardians of persons with disabilities are authorized to give consent for the sterilization of the person concerned, thus subjecting that person to forced sterilization without his or her free and informed consent.

37. **The Committee urges the State party to abolish the practice of sterilization of persons with disabilities without their free and informed consent and to amend the Civil Code and the Health Care Act accordingly. The Committee also calls upon the State party to provide remedies to the victims of forced sterilization in accordance with the recommendations made by the Human Rights Committee (see CCPR/C/CZE/CO/3, para. 11) and the Committee on the Elimination of Discrimination against Women (see CEDAW/C/CZE/CO/5, para. 35).**

**Living independently and being included in the community (art. 19)**

38. The Committee notes with concern that the State party continues to invest more resources in institutional settings than in support services that would enable persons with disabilities to live independently in their respective local communities. It also notes with

concern the lack of plans to provide support services in local communities for older persons with disabilities.

39. **The Committee urges the State party to step up the process of deinstitutionalization and to allocate sufficient resources for the development of support services in local communities that would enable all persons with disabilities, regardless of their impairments, gender or age, to choose freely with whom, where and under which living arrangements they will live, in line with the provisions of article 19 of the Convention.**

40. **The Committee recommends that the State party take all measures necessary to ensure that policy processes for deinstitutionalization, including the development of the National Plan on Promoting Equal Opportunities for Persons with Disabilities 2015–2020, have a clear timeline and concrete benchmarks for implementation that are monitored effectively at regular intervals. In particular, the Committee urges the State party to abolish the placement of children under 3 years of age in institutionalized care as soon as possible.**

**Freedom of expression and opinion, and access to information (art. 21)**

41. The Committee notes with concern the lack of investment of resources in sign language interpretation and the lack of trained sign language interpreters, which restricts the effective enjoyment of the right of deaf persons and their families to use Czech sign language.

42. **The Committee calls upon the State party to allocate sufficient financial resources for the training and hiring of sign language interpreters in order to enable deaf persons to effectively enjoy the right to use Czech sign language.**

43. The Committee notes that the State party still has not amended Act No. 231/2001 Coll., which should make audiovisual content of broadcasts accessible to persons with hearing or visual impairment.

44. **The Committee calls upon the State party to amend Act No. 231/2001 Coll. and to ensure that the audiovisual content of broadcasts is accessible to persons with hearing or visual impairment.**

**Respect for home and the family (art. 23)**

45. The Committee is concerned that the provisions of the new Civil Code and Act No. 359/1999 Coll., on Social and Legal Protection of Children, as amended, explicitly provide for restriction of legal capacity in family matters, especially the right to marriage, parental responsibility and adoption.

46. **The Committee recommends that the provisions of the Civil Code and the Act on Social and Legal Protection of Children be repealed to ensure that persons with disabilities can exercise their right to marry, their parental rights and their right to adopt on an equal basis with others, and that support services are provided in the community to parents with disabilities.**

**Education (art. 24)**

47. The Committee notes with concern that in spite of efforts made, significant numbers of boys and girls with disabilities, especially those with intellectual disabilities and autism and those who are deaf-blind, still receive their education in special schools and classes, outside of mainstream schools.

48. **The Committee recommends that the State party implement the amended School Act, incorporate inclusive education as the guiding principle of the education system and ensure the admission of children with disabilities in mainstream schools, in line with article 24 of the Convention. The Committee calls upon the State party to intensify its efforts and to allocate sufficient financial and human resources for reasonable accommodations that will enable boys and girls with disabilities, including intellectual disabilities and autism, and deaf-blind children, to receive inclusive quality education.**

**Health (art. 25)**

49. The Committee notes with concern the difficulties that deaf persons and parents of boys and girls with intellectual and psychosocial disabilities still face in accessing health-care services owing to a lack of accessible information, in spite of the efforts made by the State party.

50. **The Committee calls upon the State party to intensify its efforts to make information on health care accessible for persons with disabilities and parents of boys and girls with disabilities, including by making information on relevant services available and accessible to persons with disabilities and their families and by providing sufficient sign language interpreters to deaf persons when they seek health care.**

**Work and employment (art. 27)**

51. The Committee notes with concern the high unemployment rate of persons with disabilities and the fact that the unemployment rate of women with disabilities is higher than that of men with disabilities. Furthermore, the Committee notes with concern that close to one third of employed persons with disabilities work outside the open labour market.

52. **The Committee calls upon the State party to ensure the same wage for all persons with disabilities, regardless of their disability classification. It also urges the State party to develop measures, intensify efforts and allocate sufficient resources to promoting the employment in the open labour market of persons with disabilities, especially women.**

**Adequate standard of living and social protection (art. 28)**

53. The Committee notes with concern that Act No. 329/2011 Coll. on the Provision of Benefits to Persons with Disabilities has led to factual revision of the spectrum of benefits, the purpose thereof and the group of persons to be provided the benefits (see CRPD/C/CZE/Q/1/Add.1, para. 152). That has had an adverse effect on the enjoyment of the rights to an adequate standard of living and to social protection of persons with disabilities, including boys and girls with disabilities.

54. **The Committee calls upon the State party to review the legislation on the provision of benefits to persons with disabilities, with genuine participation of persons with disabilities, to reintroduce the additional social allowance in order to bring the standard of living of families with children with disabilities above the subsistence level. The State party should also broaden the range of and facilitate access to assistive devices for children with disabilities, regardless of age.**

55. The Committee notes with concern that a number of disability pension beneficiaries are at risk of being denied access to retirement pensions as the period during which they receive a disability pension is not included in the insurance period.

56. **The Committee calls upon the State party to revise its legislation on disability pension beneficiaries and the newly established method of calculating the relevant period from the beginning of disability until the entitlement of retirement pensions, as it has resulted in the amount of the pension received by persons with disabilities at the third level being below the minimum subsistence level.**

**Participation in political and public life (art. 29)**

57. The Committee is concerned that, under the new Civil Code and election legislation, persons with disabilities with restricted legal capacity may be denied the right to vote or to stand for election, or vote at referendums. The Committee is also concerned that election materials are reportedly rarely accessible to blind persons or to persons with intellectual disabilities, that polling stations are often not physically accessible, and that ballots may not be accessible to blind persons.

58. **The Committee recommends that the State party amend the relevant laws so that all persons with disabilities can enjoy the right to vote and stand for election, regardless of guardianship or other regimes. It also recommends that the State party ensure, through legislative and other measures, the accessibility of ballots and election materials, and of polling stations.**

**Participation in cultural life, recreation, leisure and sport (art. 30)**

59. The Committee is concerned that the State party has not ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, which allows access to published material to blind persons, persons with visual impairments or persons who have other difficulties in accessing printed materials.

60. **The Committee encourages the State party to take all appropriate measures to ratify and implement as soon as possible the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.**

## C. Special obligations

**National implementation and monitoring (art. 33)**

61. The Committee notes with concern the lack of an independent national monitoring mechanism, as required under article 33 (2) of the Convention.

62. **The Committee recommends that the Office of the Ombudsperson of the State party be entrusted with the mandate of the independent national monitoring mechanism required under article 33, paragraph 2, of the Convention and in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), with the allocation of adequate financial and human resources.**

**Follow-up and dissemination**

63. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. The Committee recommends that the State party transmit them for consideration and action to members of the Government and Parliament, officials in the relevant ministries, members of the judiciary and of relevant professional groups, such as education, medical and legal

professionals, as well as local authorities and the media, using modern social communication strategies.

64. The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its periodic reports.

65. The Committee requests the State party to disseminate these concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in accessible formats.

66. The Committee requests that the State party submit within 12 months information in writing on the measures adopted in order to meet the recommendations set out in paragraphs 32 and 37 above.

**Next report**

67. The Committee requests that the State party submit its combined second and third periodic reports no later than 28 October 2019 and to include therein information on the implementation of the present concluding observations. The Committee invites the State party to consider submitting the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date set for the report/combined reports of a State party. The replies of a State party to such a list of issues constitute its report.